

**IN THE BOARD OF SUPERVISORS**  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

\_\_\_\_\_ day \_\_\_\_\_, 20\_\_

**PRESENT:** Supervisors \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

RESOLUTION DENYING THE APPLICATION OF ANA TORRES DE ALBA FOR A  
WAIVER OF THE REQUIREMENT FOR CURB, GUTTER AND SIDEWALK  
IMPROVEMENTS AND APPROVING A MODIFICATION OF THE REQUIREMENT TO  
ALLOW FOR THE DEFERMENT OF THE IMPROVEMENTS (DRC2011-00021)

The following resolution is now offered and read:

WHEREAS, Ana Torres de Alba ("Applicant") has requested that the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") approve a waiver of curb, gutter and sidewalk improvement requirements for future residential development at 1176 N Street in San Miguel (DRC2011-00021), pursuant to the applicable provisions of Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on January 24, 2012, and the matter was continued to February 28, 2012, and determination and decision made on February 28, 2012; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the waiver request and finds that the waiver request should be denied and that the requirement for curb, gutter and sidewalk improvements shall be modified to allow for the deferment of said improvements, and that the applicant shall enter into an improvement deferral agreement with the County, subject to the findings set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the curb, gutter and sidewalk waiver request filed by Ana Torres de Alba (DRC2011-00021) is hereby denied, and that the requirement for curb, gutter and sidewalk

improvements at 1176 N Street in San Miguel (DRC2011-00021) is hereby modified to allow for the deferment of said improvements, based upon the findings of fact and determinations set forth in Exhibit "A" attached hereto and incorporated by reference herein as though set forth in full and subject to an agreement to be executed and recorded prior to building permit issuance for improvements to the Applicant's property that provides for the following:

- a. The curb, gutter, and sidewalk improvements must be completed upon written notice from the Department of Public Works or prior to close of escrow when the Applicant's property is transferred or conveyed;
- b. In lieu of posting a performance bond as required by Section 22.54.030.G. of the County Code, the agreement will constitute a lien in an amount sufficient to cover the costs to the County to complete all required curb, gutter, and sidewalk improvements; and
- c. The agreement may be executed by the Director of the Department of Public Works on behalf of the County and shall be in a form approved by County Counsel.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN  
County Counsel

By: \_\_\_\_\_

Deputy County Counsel

Dated: \_\_\_\_\_

2/9/12

STATE OF CALIFORNIA,       )  
                                      )  
County of San Luis Obispo    )       ss.

I, \_\_\_\_\_, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the  
Board of Supervisors

(SEAL)

By: \_\_\_\_\_  
Deputy Clerk

## EXHIBIT A - FINDINGS

### *CEQA Exemption*

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15303 because the project is in an urbanized area and will not have a significant impact on any fish or wildlife habitat.

### *Curb, Gutter and Sidewalk Waiver Improvements*

- B. **Board Modification:** The County Engineer and the Director of Planning and Building have determined that a waiver cannot otherwise be granted through the exceptions as defined in Sections 22.54.030.D 1 through D.3 of the County Code. Pursuant to Section 22.54.030.D.4 of the County code, the requirement for curb, gutter and/or sidewalk improvement requirements may be modified or delayed through approval of such by the Board. The Board finds that modification or delay of the curb, gutter, and sidewalk requirements is appropriate given the specific circumstances of this property at this time. The applicant will be required to enter into and record an agreement with the County, executed by the Director of the Department of Public Works and in a form approved by County Counsel, that will require completion of the improvements upon written notice from the County and provides sufficient financial assurances in the form of a lien on the applicant's property in the event that the County needs to undertake the improvements itself.
- C. The Board has determined that deferment of the requirement for curb, gutter and/or sidewalk improvements would not be detrimental to the health, safety and welfare of the community.